

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

PEDRAM BEHESHTI, derivatively on behalf of
INOVIO PHARMACEUTICALS, INC.,

Plaintiff

vs.

J. JOSEPH KIM, SIMON X. BENITO, ANGEL
CABRERA, ANN C. MILLER, JAY P.
SHEPARD, DAVID B. WEINER, WENDY L.
YARNO, and LOTA S. ZOTH,

Defendants,

and

INOVIO PHARMACEUTICALS, INC.,

Nominal Defendant.

Case No.: 2:20-cv-01962-GJP

**JOINT STIPULATION AND
ORDER CONSOLIDATING
RELATED ACTIONS,
ACCEPTING SERVICE, AND
APPOINTING
CO-LEAD COUNSEL**

ARTHUR ISMAN Derivatively On Behalf Of
INOVIO PHARMACEUTICALS, INC.,

Plaintiff,

v.

SIMON X. BENITO, J. JOSEPH KIM, ANN C.
MILLER, JAY P. SHEPARD, DAVID B.
WEINER, WENDY L. YARNO, AND LOTA S.
ZOTH,

Defendants,

INOVIO PHARMACEUTICALS, INC.,

Nominal Defendant.

Case No. 2:20-cv-02817-GJP

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KRISHNA KISHOR DEVARAKONDA and
BRIAN FOSTER, derivatively on behalf of
INOVIO PHARMACEUTICALS, INC.,

Case No. 2:20-cv-02829-GJP

Plaintiffs,

vs.

J. JOSEPH KIM, SIMON X. BENITO, ANGEL
CABRERA, ANN C. MILLER, JAY P.
SHEPARD, DAVID B. WEINER, WENDY L.
YARNO, and LOTA S. ZOTH,

Defendants,

and

INOVIO PHARMACEUTICALS, INC.,

Nominal Defendant.

WHEREAS, on April 20, 2020, Plaintiff Pedram Beheshti filed a shareholder derivative action on behalf of nominal defendant Inovio Pharmaceuticals, Inc. (“Inovio” or the “Company”) in this Court for breaches of fiduciary duty, unjust enrichment, abuse of control, gross mismanagement, waste of corporate assets, and for contribution under Sections 10(b) and 21D of the Securities Exchange Act of 1934 (the “Exchange Act”) against defendants J. Joseph Kim, Simon X. Benito, Angel Cabrera, Ann C. Miller, Jay P. Shepard, David B. Weiner, Wendy L. Yarno, and Lota S. Zoth (collectively, the “Individual Defendants,” and together with Inovio, “Defendants”), captioned *Beheshti v. Kim, et al.*, Case No. 2:20-cv-01962-GJP (the “*Beheshti Action*”);

WHEREAS, the complaint in the *Beheshti Action* was served on nominal defendant Inovio on May 8, 2020 (*see Beheshti Action*, Dkt. #2);

WHEREAS, on June 5, 2020, the Court entered an order deeming each of the Defendants to have accepted service of the complaint in the *Beheshti Action*, and staying the *Beheshti Action*

until: (1) the resolution of a forthcoming motion to dismiss the related securities class action pending in this Court captioned *McDermid v. Inovio Pharmaceuticals, Inc., et al.*, Case No. 2:20-cv-01402-GJP; or (2) any party provides fifteen (15) day written notice to counsel of record via email that they no longer consent to the stay (*see Beheshti Action*, Dkt. #4);

WHEREAS, on June 12, 2020, Plaintiff Arthur Isman filed a shareholder derivative action in this Court alleging substantially similar facts and making similar claims against most of the same defendants as the *Beheshti Action*, captioned *Isman v. Benito, et al.*, Case No. 2:20-cv-02817-GJP (the “*Isman Action*”);

WHEREAS, on June 15, 2020, Plaintiffs Krishna Kishor Devarakonda and Brian Foster filed a shareholder derivative action in this Court alleging substantially similar facts and making the same claims against the same defendants as the *Beheshti Action*, captioned *Devarakonda, et al. v. Kim, et al.*, Case No. 2:20-cv-02829-GJP (the “*Devarakonda Action*,” and together with the *Beheshti* and *Isman* Actions, the “Related Derivative Actions”);

WHEREAS, the Related Derivative Actions challenge substantially the same alleged conduct by the same Company directors, executive officers, and entities and involve substantially the same questions of law and fact;

WHEREAS, the parties therefore respectfully submit that consolidation of the Related Derivative Actions is appropriate;

WHEREAS, to avoid potentially duplicative actions and to prevent any waste of the Court’s and nominal defendant’s resources, the parties agree that the Related Derivative Actions should be consolidated for all purposes, including pre-trial proceedings and trial, into a single consolidated action; and

WHEREAS, in order to realize the efficiencies made possible by consolidation of the Related Derivative Actions, Plaintiffs Beheshti, Isman, Devarakonda, and Foster (“Plaintiffs”) agree that The Brown Law Firm, P.C. and Gainey McKenna & Egleston, the respective resumes of which are attached hereto as Exhibits A and B, shall be designated as Co-Lead Counsel

representing Plaintiffs in the consolidated action;¹

WHEREFORE, the parties, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. The stay of proceedings ordered in the *Beheshti* Action is temporarily lifted for the limited purpose of the filing of, and ruling on, this stipulation and (proposed) order.
2. Defendants, through their undersigned counsel, hereby accept service of the complaints in the *Isman* and *Devarakonda* Actions.
3. The following actions are hereby consolidated for all purposes, including pre-trial proceedings and any trial, under Case No. 2:20-cv-01962-GJP (the “Consolidated Action”), pursuant to Federal Rule of Civil Procedure 42(a):

<u>Case Name</u>	<u>Case Number</u>	<u>Date Filed</u>
<i>Beheshti v. Kim, et al.</i>	2:20-cv-01962-GJP	April 20, 2020
<i>Isman v. Benito, et al.</i>	2:20-cv-02817-GJP	June 12, 2020
<i>Devarakonda, et al. v. Kim, et al.</i>	2:20-cv-02829-GJP	June 15, 2020

4. Every pleading filed in the Consolidated Action, or in any separate action included herein, must bear the following caption:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT of PENNSYLVANIA**

IN RE INOVIO PHARMACEUTICALS, INC.
DERIVATIVE LITIGATION

Lead Case No. 2:20-cv-01962-GJP

5. All papers filed in connection with the Consolidated Action will be maintained in one file under Lead Case No. 2:20-cv-01962-GJP.
6. Co-Lead Counsel for Plaintiffs for the conduct of the Consolidated Action shall be:

¹ Defendants take no position on the appointment of Plaintiffs’ Co-Lead Counsel.

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7. Plaintiffs' Co-Lead Counsel shall have the sole authority to speak for Plaintiffs in all matters regarding pre-trial procedure, trial, and settlement negotiations and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.

8. Co-Lead Counsel shall be responsible for coordinating all activities and appearances on behalf of Plaintiffs. No motion, request for discovery, or other pre-trial or trial proceedings will be initiated or filed by any plaintiffs except through Co-Lead Counsel.

9. Defendants' counsel may rely upon all agreements made with Co-Lead Counsel, or other duly authorized representatives of Co-Lead Counsel, and such agreements shall be binding on all plaintiffs.

10. This Order shall apply to each derivative case arising out of the same, or substantially the same, transactions or events as the Consolidated Action, that is subsequently filed in, removed to, reassigned to, or transferred to this Court. When a derivative case that properly belongs as part of *In re Inovio Pharmaceuticals, Inc. Derivative Litigation*, Lead Case 2:20-cv-01962-GJP, is hereafter filed in this Court, reassigned to this Court, or transferred here from another court, this Court requests the assistance of counsel in calling to the attention of the

Clerk of the Court the filing, reassignment, or transfer of any derivative case that might properly be consolidated as part of *In re Inovio Pharmaceuticals, Inc. Derivative Litigation*, Lead Case No. 2:20-cv-01962-GJP, and counsel are to assist in assuring that counsel in subsequent actions receive notice of this order.

11. The terms of the order entered on June 5, 2020 staying the *Beheshti* Action shall apply to the Consolidated Action.

12. This Stipulation is without prejudice to any and all defenses Defendants may assert in this or any of the above-referenced actions and without prejudice to any and all claims Plaintiffs may assert.

Dated: July 14, 2020

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*Counsel for Plaintiff Beheshti and [Proposed]
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Dated: July 14, 2020

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Dated: July 14, 2020

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Dated: July 14, 2020

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Counsel for Defendants

IT IS SO ORDERED.

Dated: July 21, 2020

/s/ **Gerald J. Pappert**
Hon. Gerald J. Pappert
U.S. District Court Judge